

Court of Appeals, State of Michigan

ORDER

People of MI v Labron Williams

Docket No. 275850

LC No. 06-100033-01

Brian K. Zahra
Presiding Judge

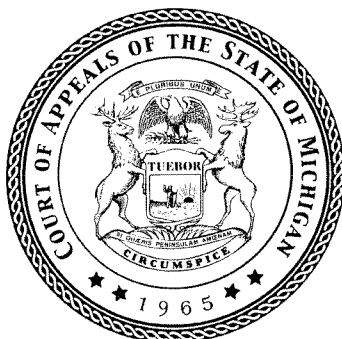
Helene N. White

Kurtis T. Wilder
Judges

The Court orders, pursuant to MCR 7.205(D)(2), that the circuit court's October 11, 2006 order that denied the prosecutor's motion to reverse the district court's dismissal is REVERSED in regard to the first-degree criminal sexual conduct and third-degree criminal sexual conduct charges against defendant. In reviewing a bindover decision, this Court does not defer to the circuit court's decision to any extent; instead, this Court reviews the district court's decision to determine whether it abused its discretion. See *People v Greene*, 255 Mich App 426, 434; 661 NW2d 616 (2003). For purposes of preliminary examination, the proofs adduced must only establish probable cause. *People v Goecke*, 457 Mich 442, 469; 579 NW2d 868 (1998). In this case, the evidence at the preliminary examination established probable cause to believe that defendant, assisted by at least one other person, engaged in vaginal intercourse with the victim in the basement, and that defendant either used force or coercion to commit the act, or the victim was physically helpless. See MCL 750.520b(1)(d). The evidence also established probable cause to believe that defendant engaged in anal intercourse with the victim in the basement, and that defendant used force or coercion to commit the act. See MCL 750.520d(1)(b). As a result, the district court abused its discretion in denying the bindover on the first-degree criminal sexual conduct and third-degree criminal sexual conduct charges against defendant. In regard to the denial of the bindover on the second-degree criminal sexual conduct charge, we find no abuse of discretion.

The motion to file a late answer is GRANTED.

This case is REMANDED to the district court for a bindover to circuit court on the first-degree criminal sexual conduct and third-degree criminal sexual conduct charges. We do not retain jurisdiction. This order shall have immediate effect. MCR 7.215(F)(2).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

OCT 02 2007

Date

Sandra Schultz Mengel
Chief Clerk